IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2968 OF 2004

Bhupendra Yashwant Ajinkya & Ors. ..Petitioners
Vs.
The Municipal Corpn. of Greater Mumbai & Ors. ..Respondents

Mr.B. Saraf with Mr. M.L.Chaturvedi for Petitioners
Mrs.A. Ajitkumar for Respondent No.1
Mr. A.C. Mahimkar for Respondent No.6

CORAM: F.I. REBELLO &
S.P. KUKDAY, JJ.
DATE: 28TH APRIL, 2005.

P.C.

. Petitioner had submitted plans for development. The properties were identified as bearing C.T.S. No.138 and 138/1 to 4. A suit for partition was filed bearing Suit No.1080 of 1967. Consent terms were filed in the said suit.

. It is the case of the Petitioners that based on the said consent terms they had become the owners of an exclusive portion of land on which they have the right to develop.

. When they applied for development permission the Respondent Corporation refused to grant permission on various grounds. One of the grounds was that the Petitioners had to get clarification from this Court or the City Civil Court in respect of a decree passed in the suit No.5597 of 1978.

Admittedly Petitioners are not parties in the said suit. The said suit appears to be a suit filed by some of the original co-owners against Respondents 5,6 and 7. The condition therefore, imposed on the Petitioner by the Respondent Corporation to seek directions from this Court or the City Civil Court in respect of the suit bearing No.5597 of 1978 as mentioned is arbitrary. It is for the Corporation to consider the title documents of the Petitioner and other requirements in terms of the building by-laws and regulations and if the same are in Order, then to grant permission without insisting on the clarification as earlier sought in Suit No.5597 of 1978.

. The Respondent Corporation, if it has not intimated to the Petitioner about the rejection of the building approval, to communicate the same to the Petitioners within four weeks from today.

. With the above directions the Petition stands disposed of. No order as to costs.

(F.I.REBELLO,J.)

(S.P. KUKDAY,J.)